IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5502 OF 2001

Shri.Ramniwas M.Agarwalla & Ors. .. Petitioners
V/s
Pune Municipal Corporation & Others .. Respondents

Mr.A.V.Anturkar for the Petitioners.
Mr.R.G.Ketkar with Mr.Reddy for Res.No.1 & 2.
Mr.R.M.Patne, AGP for State.

CORAM: S.RADHAKRISHNAN &
DR.D.Y.CHANDRACHUD, JJ.

DATE : 22.11.2004.

P.C.:

1. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent Nos.1 and 2. Rule. Rule is made returnable forthwith and heard by consent.

2. By this Petition, the Petitioners are challenging the action of Respondent Nos.1 and 2 seeking to demolish certain structures which are alleged to be illegal on the final plot of Town Planning Scheme.

3. The learned Counsel for the Petitioners has brought to our notice the provisions of Section 90 of the Maharashtra Regional Town Planning Act, 1966. Sub-section 3 of Section 90 of the said Act makes it clear that if any action taken by the Planning Authority is questioned, the matter shall be referred to the State Government or to any Officer authorised by the State Government in that behalf. The learned Counsel for the

Petitioners submits that the Petitioners are ready and willing to appear before the State Government, if Respondent No.1 - Pune Municipal Corporation is directed to make a reference, which apparently appears to be mandatory under Section 90(3) of the Maharashtra Regional and Town Planning Act, 1966. It may be noted here that though the Petition was filed in the year 2001, till date there is no affidavit in reply filed on behalf of the Pune Municipal Corporation.

4. Under the aforesaid facts and circumstances, we direct Respondent Nos.1 and 2 being the Planning Authority, to refer the matter to the State Government as per the provisions of Section 90(3) of the Maharashtra Regional and Town Planning Act, 1966.

5. The concerned Officer of the State Government shall afford an apportunity of personal hearing to the Petitioners & the Interveners and shall decide the matter by a speaking order, as expeditiously as possible, preferrably by 31st March, 2005.

6. All the contentions of the Petitioners and the Respondents are kept expressly open.

7. Parties to maintain status quo as of today till the matter is decided by the concerned Officer of the State Government and for a further period of two weeks from

the date of communication of the said order to the Petitioners.

8. Rule is made absolute in the above terms.

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